

ASSEMBLY BILL

No. 1982

Introduced by Assembly Member Gallegos

February 18, 2000

An act to amend Sections 53750 and 54984.7 of the Government Code, relating to local agency assessments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1982, as introduced, Gallegos. Local agency assessments.

(1) Existing law imposes certain notice, protest, and hearing requirements when a local government agency proposes to impose a new or increased assessment, as defined, upon real property with specified exceptions. Existing law defines the word “increased” as applied to a tax, assessment, or property-related fee or charge, and provides that a tax, fee, or charge is not deemed to be “increased” by an agency action that adjusts the amount of a tax, fee, or charge in accordance with a schedule of adjustments adopted prior to November 6, 1996, or that implements or collects a previously approved tax, fee, or charge, as long as the rate is not increased beyond the level previously approved and the methodology previously approved is not revised so as to result in an increased amount for that levy.

This bill would add assessment to these 2 categories of actions by an agency deemed not to increase a levy.

(2) Existing law establishes a uniform procedure available to any local agency authorized to provide water, sewer, or water and sewer service and authorized to fix, levy, or collect

any standby or availability charge or assessment for provision of that service. Under that law, if the governing body has followed the procedure, it may continue the same charge in subsequent years, by published resolution, and dispense with the mailed notice requirement.

This bill would authorize the governing body to increase the amount of an assessment in this manner if the increase is based upon an assessment formula, or is within a range of assessments, previously noticed and adopted.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53750 of the Government Code
2 is amended to read:

3 53750. For purposes of Article XIII C and Article
4 XIII D of the California Constitution and this article:

5 (a) “Agency” means any local government as defined
6 in subdivision (b) of Section 1 of Article XIII C of the
7 California Constitution.

8 (b) “Assessment” means any levy or charge by an
9 agency upon real property that is based upon the special
10 benefit conferred upon the real property by a public
11 improvement or service, that is imposed to pay the capital
12 cost of the public improvement, the maintenance and
13 operation expenses of the public improvement, or the
14 cost of the service being provided. “Assessment”
15 includes, but is not limited to, “special assessment,”
16 “benefit assessment,” “maintenance assessment,” and
17 “special assessment tax.”

18 (c) “District” means an area that is determined by an
19 agency to contain all of the parcels that will receive a
20 special benefit from a proposed public improvement or
21 service.

22 (d) “Drainage system” means any system of public
23 improvements that is intended to provide for erosion
24 control, landslide abatement, or for other types of water
25 drainage.



(e) “Extended,” when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date.

(f) “Flood control” means any system of public improvements that is intended to protect property from overflow by water.

(g) “Identified parcel” means a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.

(h) (1) “Increased,” when applied to a tax, assessment, or property-related fee or charge, means a decision by an agency that does either of the following:

(A) Increases any applicable rate used to calculate the tax, assessment, fee or charge.

(B) Revises the methodology by which the tax, assessment, fee or charge is calculated, if that revision results in an increased amount being levied on any person or parcel.

(2) A tax, *assessment*, fee, or charge is not deemed to be “increased” by an agency action that does either or both of the following:

(A) Adjusts the amount of a tax~~or~~, *assessment*, fee, or charge in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996.

(B) Implements or collects a previously approved tax, ~~or~~ *assessment*, fee, or charge, so long as the rate is not increased beyond the level previously approved by the agency, and the methodology previously approved by the agency is not revised so as to result in an increase in the amount being levied on any person or parcel.

(3) A tax, assessment, fee or charge is not deemed to be “increased” in the case in which the actual payments from a person or property are higher than would have

1 resulted when the agency approved the tax, assessment,
2 or fee or charge, if those higher payments are attributable
3 to events other than an increased rate or revised
4 methodology, such as a change in the density, intensity,
5 or nature of the use of land.

6 (i) “Notice by mail” means any notice required by
7 Article XIII C or XIII D of the California Constitution
8 that is accomplished through a mailing, postage prepaid,
9 deposited in the United States Postal Service and is
10 deemed given when so deposited. Notice by mail may be
11 included in any other mailing to the record owner that
12 otherwise complies with Article XIII C or XIII D of the
13 California Constitution and this article, including, but not
14 limited to, the mailing of a bill for the collection of an
15 assessment or a property-related fee or charge.

16 (j) “Record owner” means the owner of a parcel
17 whose name and address appears on the last equalized
18 secured property tax assessment roll, or in the case of any
19 public entity, the State of California, or the United States,
20 means the representative of that public entity at the
21 address of that entity known to the agency.

22 (k) “Registered professional engineer” means an
23 engineer registered pursuant to the Professional
24 Engineers Act (Chapter 7 (commencing with Section
25 6700) of Division 3 of the Business and Professions Code).

26 (l) “Vector control” means any system of public
27 improvements or services that is intended to provide for
28 the surveillance and control of vectors as defined in
29 subdivision (f) of Section 2200 of the Health and Safety
30 Code and a pest as defined in Division 4 (commencing
31 with Section 5001) and Division 5 (commencing with
32 Section 9101) of the Food and Agricultural Code.

33 (m) “Water” means any system of public
34 improvements intended to provide for the production,
35 storage, supply, treatment, or distribution of water.

36 SEC. 2. Section 54984.7 of the Government Code is
37 amended to read:

38 54984.7. (a) If the procedures set forth in this chapter
39 have been followed in a given year, the governing body
40 may, by resolution, continue the charge *or assessment* in



1 successive years at the same rate and in the same manner,
2 but dispensing with the requirement for mailed notice.
3 The local agency shall cause notice of the intent to adopt
4 the resolution to be published pursuant to Section 6066,
5 prior to the date set for adoption, and shall hear any and
6 all objections at the time and place set forth in the notice.
7 The governing body shall, at the time and place specified,
8 conduct the hearing and consider all objections to the
9 assessment, if any. The governing body may, thereafter,
10 adopt, revise, reduce, or modify the assessment or charge,
11 but may not increase the charge, or may overrule any and
12 all objections. The determination of the governing body
13 shall be final. ~~This section~~

14 *(b) Subdivision (a) shall not apply if the amount of the*
15 *assessment is increased, or if the governing body makes*
16 *any change in the areas subject to the assessment,*
17 *compared to the prior year's assessment.*
18 *Notwithstanding other provisions of this section, the*
19 *governing body may increase the amount of an*
20 *assessment in accordance with subdivision (a) if the*
21 *increase is based upon an assessment formula, or is within*
22 *a range of assessments, previously noticed by the local*
23 *agency and adopted by the governing body.*

